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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OF THE SECRETARY
ORIGINAL

In the matter of

Application of BellSouth Corporation,)
BellSouth Telecommunications, Inc., and)
BellSouth Long Distance, Inc., for Provision)
of In-Region, InterLATA Service in the)
State of South Carolina)
_____)

CC Docket
No. 97-208

**COMMENTS OF AT&T CORP.
IN OPPOSITION TO BELL SOUTH'S
SECTION 271 APPLICATION**

APPENDIX - VOLUME IX

**APPENDIX TO COMMENTS OF AT&T CORP.
IN OPPOSITION TO BELLSOUTH'S
SECTION 271 APPLICATION**

TAB	AFFIDAVIT	SUBJECT(S) COVERED
A	William J. Baumol	Public Interest
B	Robert H. Bork	Public Interest
C	Jay M. Bradbury	Operations Support Systems
D	James Carroll	AT&T Market Entry
E	Ray Crafton	Unbundled Network Elements: Combinations
F	R. Glenn Hubbard and William H. Lehr	Public Interest
G	Patricia A. McFarland	Resale Pricing and Restrictions
H	Patricia A. McFarland	Section 272 compliance
I	Kenneth P. McNeely	SCPSC Proceedings
J	C. Michael Pfau	Operations Support Systems: Performance Measurements
K	James A. Tamplin, Jr.	Unbundled Network Elements
L	Don J. Wood	Unbundled Network Elements: Pricing



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Services in South Carolina**

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AFFIDAVIT OF

C. MICHAEL PFAU

ON BEHALF OF

AT&T CORP.

AT&T EXHIBIT J

PUBLIC VERSION

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CC Docket No. 97-208

**AFFIDAVIT OF C. MICHAEL PFAU
ON BEHALF OF AT&T CORP.**

1. My name is C. Michael Pfau. My business address is 295 North Maple Avenue, Basking Ridge, New Jersey 07920.
2. I am employed by AT&T Corp., and I serve as Division Manager, Local Services Division Negotiations Support.
3. My responsibilities include developing and communicating AT&T's business requirements for local services to the regional teams negotiating with the incumbent local exchange carriers ("incumbent LECs"). I also assist the regional teams in performing feasibility assessment of business arrangements offered by the incumbent LECs.
4. I am also actively involved at AT&T, and with the Local Competition Users Group, in the development of performance measurements for evaluating the performance of incumbent LECs in delivering access to their operations support systems, services and facilities to competing local service providers. I previously submitted affidavits regarding performance measurements to the Commission in response to the application of SBC

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Communications to provide in-region interLATA services in Oklahoma and the application of Ameritech to provide in-region interLATA services in Michigan.

5. I began my career at Bell of Pennsylvania, where I had various assignments in central office engineering, plant extension, circuit layout and regulatory operations. Just prior to divestiture, I moved to AT&T General Departments, where I was responsible for managing intrastate service cost models. My next assignment was in an AT&T regional organization responsible for regulatory implementation support of service and marketing plans within the five Ameritech states. I then moved to a headquarters position responsible for managing market research related to business communications services. Immediately prior to my current assignment, I worked within the product management organization, focusing upon private line data services.

6. I have a Bachelor of Science degree in Mechanical Engineering and a Masters Degree in Business Administration, both from Drexel University. In addition, I have a Professional Engineering License from the State of Pennsylvania.

I. SUBJECT OF STATEMENT

7. In support of its application to provide in-region interLATA long distance services in South Carolina, BellSouth contends that it is providing competitive local exchange carriers ("CLECs") with the "nondiscriminatory access" to its operations support systems and associated services and facilities that is required under the Telecommunications

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Act of 1996 ("1996 Act") and the Commission's orders.¹ The Affidavit of Jay Bradbury, submitted in this proceeding by AT&T, demonstrates that BellSouth is not providing CLECs with nondiscriminatory access to its operations support systems because, among other things, (1) BellSouth has not yet completed development of the real-time electronic interfaces that are required to provide CLEC's with equivalent access to BellSouth's operational support systems, and (2) the interim access arrangements presently offered by BellSouth do not provide equivalent access for CLECs.

8. Even if potentially adequate electronic interfaces were in a state of operational readiness, however, that alone would not establish that the access BellSouth is delivering to AT&T and other CLECs is nondiscriminatory. As the Commission made clear in its recent order denying Ameritech's application to offer interLATA services in Michigan, a BOC must also "substantiate" its claim of nondiscriminatory performance with empirical data demonstrating that the access being provided to CLECs is in fact "equal" or "equivalent" in terms of its availability, timeliness, accuracy and completeness to the access that BellSouth provides to itself.² Further, the Commission has specifically suggested a number of

¹ See BellSouth Brief, pp. 21, 32; Affidavit of William N. Stacy dealing with Operations Support Systems ("Stacy OSS Aff."), ¶ 145; Affidavit of William N. Stacy dealing with Performance Measures ("Stacy PM Aff."), ¶ 87; Affidavit of David Hollett, ¶ 4.

² Memorandum Opinion and Order, *Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, as amended, to Provide In-Region, InterLATA*

(continued...)

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performance measurements for which data should be provided by a BOC in support of a Section 271 application.³

9. This affidavit responds to the performance data offered by BellSouth in support of its application through the affidavits of Mr. William N. Stacy. My affidavit first addresses the requirements for performance measurement that BellSouth must meet to make a threshold showing of nondiscrimination. It then examines the performance data that BellSouth has presented with its application. Based on my analysis, I conclude that the performance information provided by BellSouth is not adequate to establish that BellSouth is providing CLECs with nondiscriminatory performance. In particular, I show that BellSouth has failed to provide data for most of the performance measurements which the Commission has found necessary to any showing that parity of performance is being provided to CLECs. Further, I show that BellSouth has actually withheld relevant performance data from the Commission which demonstrates that BellSouth is *not* providing nondiscriminatory performance for CLECs. Finally, in the very few instances where BellSouth has provided comparative

² (...continued)

Services in Michigan, CC Docket No. 97-137 (released August 19, 1997) ("*Ameritech Michigan Order*"), ¶¶ 139, 204.

³ See, e.g., *Ameritech Michigan Order*, ¶ 212. See also Memorandum Opinion and Order, *Application of NYNEX Corp. and Bell Atlantic Corp. for Consent to Transfer Control of NYNEX Corp.*, File No. NSD-L-96-10 (released August 14, 1997) ("*Bell Atlantic/NYNEX Order*"), App. D.

performance data, I show that that data too confirms that nondiscriminatory performance is *not* being provided to CLECs, notwithstanding BellSouth's efforts to present its data in ways that obscure meaningful performance comparisons and conceal its discrimination.

II. APPROPRIATE PERFORMANCE MEASUREMENTS ARE REQUIRED TO DETERMINE WHETHER BELL SOUTH IS PROVIDING NONDISCRIMINATORY PERFORMANCE FOR COMPETITORS.

A. The Evidence Needed To Show Nondiscriminatory Performance For CLECs.

10. BellSouth cannot establish that CLEC access to its operations support systems is nondiscriminatory simply by asserting or promising that it will be so. Nor can BellSouth rely on the allegedly nondiscriminatory design of its systems and procedures to obviate the need for review of its actual performance, for as the Commission has recognized, "the BOCs' use of nondiscriminatory, automated order processing systems . . . does not guarantee that requests placed via these systems are actually completed within [the same] period of time."⁴ Thus, BellSouth must *demonstrate* that nondiscriminatory access is actually being delivered to CLECs, and that demonstration requires that BellSouth monitor the access it provides -- both to CLECs and to itself -- pursuant to an appropriate measurement plan and report the results to the Commission with its application. As the Commission stated in its

⁴ First Report and Order, *Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act*, CC Docket No. 96-149 (released December 24, 1996), ¶ 243.

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recent *Ameritech Michigan Order*, "proper performance measures with which to compare BOC retail and wholesale performance, and to measure exclusively wholesale performance, are a necessary prerequisite to demonstrating compliance with the Commission's 'nondiscrimination' and 'meaningful opportunity to compete' standards."⁵

11. In order to prove that nondiscriminatory access is actually being delivered to CLECs, BellSouth needs to provide the Commission with measurements sufficient to demonstrate that the access being provided to CLECs is in fact at least "the same" as,⁶

⁵ *Ameritech Michigan Order*, ¶ 204 (quoting Department of Justice Evaluation, filed June 25, 1997, App. A, p. A-3). See also Affidavit of Michael J. Friduss on behalf of the Dept. of Justice, filed May 16, 1997, in *Application of SBC Communications, Inc. Pursuant to Section 271 of the Telecommunications Act of 1996 to Provide In-Region, InterLATA Services in Oklahoma*, CC Docket No. 97-121 ("Friduss Aff. (DOJ)"), pp. 5, 25 ("the ability to test whether parity exists or whether discrimination is taking place is dependent on the existence of explicit and specific performance measures and the reporting of results"); Consultation of the Michigan Public Service Comm'n, dated June 9, 1997, in *Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, as amended, to Provide In-Region, InterLATA Services in Michigan*, CC Docket No. 97-137 ("Michigan PSC"), pp. 33-34 ("a method or system of gauging the performance," including "complete and appropriate performance standards," "must be in place before a positive determination can be made by the FCC regarding Ameritech's compliance with this checklist item"); Order Regarding Statement, *In re BellSouth Telecommunications, Inc.'s Statement of Generally Available Terms and Conditions Under Section 252(f) of the Telecommunications Act of 1996*, Georgia Pub. Serv. Comm'n Docket No. 7253-U (March 20, 1997), pp. 29-30 ("comparative standards must be evaluated to ensure that the interfaces provide nondiscriminatory access").

⁶ First Report and Order, *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98 (released August 8, 1996) ("*Local Competition Order*"), ¶ 523 ("the incumbent must provide *the same access* to competing providers" that it provides to its own customer service representatives); ¶ 316 ("the incumbent
(continued...)")

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"equal,"⁷ or "equivalent to"⁸ the access that BellSouth provides to its own customer service representatives in terms of its availability, timeliness, accuracy and completeness. This means that BellSouth must show not only that it has provided appropriate electronic interfaces for use by CLECs, but that CLECs are able to use those interfaces to interact with its operations

⁶ (...continued)

must provide access to [OSS] functions under *the same terms and conditions* that they provide services to themselves or their customers"); ¶ 518 (competing providers must be provided with the ability "to perform the functions of pre-ordering, ordering, provisioning, maintenance and repair, and billing for network elements and resale services in substantially *the same time and manner* that an incumbent can for itself"); *Ameritech Michigan Order*, ¶ 135 (incumbent must provide access that enables competitors to perform "in substantially *the same time and manner* as the incumbent performs that function for itself"); ¶ 143 ("the BOC must provide *the same access* to competing carriers that it provides to itself") (emphasis added).

⁷ *Local Competition Order*, ¶ 315 (access must be provided on terms that are "*equal to* the terms and conditions under which the incumbent LEC provisions such elements to itself"); *Second Order on Reconsideration, Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98 (released December 13, 1996) ("*Second Order on Reconsideration*"), ¶ 9 (OSS access "must be *equal to*" the access that the incumbent LEC provides to itself); *Ameritech Michigan Order*, ¶ 139 ("BOC must provide access to competing carriers that is *equal to* the level of access that the BOC provides to itself . . . in terms of quality, accuracy and timeliness"); ¶ 166 (incumbent LEC "must provide to competing carriers access to such OSS functions *equal to* the access that it provides to its retail operations") (emphasis added).

⁸ *Second Order on Reconsideration*, ¶ 9 ("incumbent LEC must provide *at least equivalent* electronic access to requesting carriers"); *Ameritech Michigan Order*, ¶ 128 (incumbent LEC must demonstrate that it provides access to OSS functions that "is *equivalent to* the access it provides to itself"); ¶ 130 (the nondiscriminatory access standard requires "access to OSS functions . . . that is *equivalent to* what it provides for itself"); ¶ 139 (Act requires "*equivalent access*"); ¶ 140 ("*equivalent access*" is the standard required by section 271 and section 251 of the Act"); ¶ 196 (BOC has "duty to provide *equivalent access*") (emphasis added).

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support systems and that those underlying legacy systems are in fact able to process requests from CLECs in an efficient and nondiscriminatory manner.⁹

12. To make this showing, BellSouth must monitor and measure its performance for CLECs and submit that information to the Commission with its application together with "comparative performance information" regarding its performance of the same or analogous functions for its own retail operations.¹⁰ Moreover, BellSouth must show, based on stable and verifiable data, that parity of performance is being delivered for all operations support systems functions, including pre-ordering, ordering, provisioning, maintenance and repair, and billing,¹¹ and that such parity of performance is being delivered for each of the three modes of competitive entry: interconnection, services offered for resale, and unbundled network elements ("UNEs"), including combinations of elements.¹²

⁹ See also *Ameritech Michigan Order*, ¶¶ 134-135 (specifically rejecting Ameritech's argument that the duty to provide nondiscriminatory access to OSS functions "extends only to the interface requirement").

¹⁰ *Ameritech Michigan Order*, ¶ 212 (BOC must provide "comparative performance information" for unbundled network elements as well as resale services to permit meaningful comparisons between its performance for CLECs and its performance for its own retail operations); ¶¶ 139-141.

¹¹ See *Ameritech Michigan Order*, ¶¶ 128, 130, 137, 158.

¹² See, e.g., *Ameritech Michigan Order*, ¶ 133 (BOC must provide access to OSS functions to competing carriers that "supports each of the three modes of competitive entry strategies established by the Act: interconnection, unbundled network elements, and services offered for (continued...)

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13. Additionally, consistent with "the 1996 Act's goal of promoting local exchange competition," BellSouth must provide CLECs with access to OSS functions and associated services and facilities on terms and conditions that "provide an efficient competitor a meaningful opportunity to compete."¹³ This means that where BellSouth provides no analogous function or facility for itself, it must demonstrate that its performance is sufficient to enable CLECs to compete fairly in the provision of local services.¹⁴

¹² (...continued)

resale"); ¶ 159-160 (specifically requiring proof of "nondiscriminatory access to OSS functions associated with unbundled network elements"); *Second Order on Reconsideration*, ¶ 9 ("to the extent that an incumbent LEC provides electronic pre-ordering, ordering, provisioning, maintenance and repair, or billing to itself, its customers, or other carriers, the incumbent LEC must provide at least equivalent electronic access to requesting carriers in the provision of unbundled network elements or services for resale").

¹³ *Local Competition Order*, ¶ 315.

¹⁴ See *Ameritech Michigan Order*, ¶¶ 139-141. The Act's "meaningful opportunity to compete" requirement also means that CLECs must be able to use the incumbent LEC's operations support systems on a nondiscriminatory basis. For example, if an incumbent LEC were simply to provide CLECs with one of its own terminals for access to its proprietary legacy operations support systems without any gateway or interface to permit the CLEC's systems to communicate with those of the incumbent, the CLEC would be severely disadvantaged because CLEC representatives would have to be trained on how to work with the legacy systems of each incumbent LEC and they would have to enter data separately into both the incumbent's and the CLEC's systems, a discriminatory and prohibitively inefficient procedure for CLECs planning to enter local markets on a national scale that would not "serve to promote fair and efficient competition." *Local Competition Order*, ¶ 315.

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14. The Commission's recent orders make clear that an appropriate performance measurement plan must include at least the following characteristics:¹⁵ (1) it must support statistically valid comparisons of the BOC's performance for CLECs with its performance for its own retail operations;¹⁶ (2) it must be based on clear and precise definitions of the performance measurements to be used and the data to be collected and reported;¹⁷ (3) it must monitor the BOC's performance for each of the principal pre-ordering, ordering and provisioning, maintenance and repair, billing, and other OSS functions;¹⁸ (4) it must capture and retain sufficiently disaggregated information to account for performance differences caused by variations in the underlying service or activity mix;¹⁹ (5) it must be actually implemented and producing stable results which demonstrate that nondiscriminatory

¹⁵ These criteria are confirmed by the Michigan Commission, which stated that an appropriate measurement plan should, among other things, (1) assess both the interface and the performance of the underlying operations support systems, (2) permit direct comparisons between the BOC's performance for CLECs and its performance for itself wherever possible, (3) use substantially analogous operations for purposes of comparison where exact parity of operations does not exist, (4) provide separate measurements for different customer classes, different services or products, and different geographic areas where necessary to permit meaningful parity comparisons to be made, (5) precisely define how each of the measurements is to be made, and (6) specify reporting schedules and formats. Michigan PSC, pp. 31-32.

¹⁶ See, e.g., *Ameritech Michigan Order*, ¶¶ 212, 139-141.

¹⁷ See, e.g., *id.*, ¶¶ 209, 212.

¹⁸ See, e.g., *id.*, ¶¶ 128, 130, 137, 158.

¹⁹ See, e.g., *id.*, ¶¶ 206, 212.

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access is in fact being provided to CLECs for interconnection, services available for resale, and unbundled network elements;²⁰ and (6) it must be subject to appropriate audit procedures so that all parties can rely with confidence on the data reported by the BOC.²¹

15. In order to develop an appropriately defined set of performance measurements for determining whether or not parity of performance is actually being delivered to CLECs, AT&T has worked with a group of other CLECs, known as the Local Competition Users Group, consisting of AT&T, MCI, Sprint, LCI and WorldCom. The objective of this group has been to develop a minimum set of performance measurements that adequately reflects whether parity is being provided to CLECs without imposing undue burdens or costs on incumbent LECs. The performance measurements developed by the Local Competition Users Group are set out in Attachment 1.²² Those performance measures are divided into

²⁰ See, e.g., *id.*, ¶¶ 133, 159-160.

²¹ See, e.g., *Bell Atlantic/NYNEX Order*, App. C, p. 125 ("Bell Atlantic/NYNEX shall provide access to the available data and information necessary for a carrier receiving Performance Monitoring Reports to verify the accuracy of such reports").

²² The Local Competition Users Group also developed default performance "benchmarks" for application in those situations in which the BOC is unable or unwilling to provide comparative data on its performance of the same or analogous functions for its own retail operations. As a result of the Commission's determination that BOCs must, wherever possible, provide "comparative performance data . . . [to] permit comparisons with [the BOC's] retail performance" (*Ameritech Michigan Order*, ¶ 212), there should be no need to rely upon performance benchmarks except where there is no analogous function that the BOC performs for its own retail operations.

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seven categories: pre-ordering, ordering and provisioning, maintenance and repair, general, billing, unbundled network elements and UNE combinations, operator services and directory assistance, and network performance. Within each functional category, the Local Competition Users Group has identified a limited number of "key measures." These key measures represent a minimum set of performance measurements that is required for determining whether a BOC is providing CLECs with nondiscriminatory performance.²³

16. Although the Commission has not yet addressed the full set of performance measures proposed by the Local Competition Users Group,²⁴ the Commission has approved or required a number of those measurements in its recent *Ameritech Michigan* and *Bell Atlantic/NYNEX* orders.²⁵ Moreover, the Commission in those orders has specifically required BOCs to report some additional performance data bearing on their duty to provide

²³ Expansion beyond the minimal set of performance measures developed by the Local Competition Users Group should also be encouraged wherever mutual agreement exists or the Commission identifies additional measures that would be useful in detecting discrimination and ensuring parity of performance for CLECs. Particularly as CLECs gain greater experience with the use of unbundled elements and UNE combinations, existing measures may need to be altered or new measures may need to be defined.

²⁴ The Commission requested comments on the performance measurements developed by the Local Competition Users Group as a part of the Commission's request for comments on the petition for expedited rulemaking filed by LCI and CompTel. See Public Notice DA 97-1211, *In re Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, RM 9101 (released June 10, 1997).

²⁵ See Attachment 1 (last two columns show corresponding performance measures required or addressed in *Ameritech Michigan* and *Bell Atlantic/NYNEX* orders).

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CLECs with equivalent access to their operations support systems, such as data on the percentage of "flow through orders" processed by the BOC without manual intervention.²⁶

B. The Performance Data Submitted By BellSouth Are Inadequate.

17. BellSouth offers comparative performance data for only seven resale provisioning and maintenance measures and four local interconnection trunking measures which BellSouth has used historically to manage its performance for its retail customers.²⁷ BellSouth argues that this data shows no discrimination against CLECs on the basis of "statistical process control" charts, which BellSouth uses to create a range of supposedly nondiscriminatory conduct.²⁸ In addition, BellSouth offers data on five performance measures pertaining to its provision of unbundled loops for CLECs without any comparative data on its performance of analogous functions for its own local retail operations,²⁹ and it presents some limited data on order flow through and response times for its LENS pre-ordering interface based on special studies conducted by BellSouth.³⁰

²⁶ See *Ameritech Michigan Order*, ¶ 212; *Bell Atlantic/NYNEX Order*, App. D, Measure 7.

²⁷ See BellSouth Brief, pp. 54-55; Stacy PM Aff., ¶¶ 19, 23, 34 & Exs. WNS-1, WNS-2, WNS-6 & WNS-9.

²⁸ See Stacy PM Aff., ¶¶ 30-34, 42-51 & Ex. WNS-9.

²⁹ See BellSouth Brief, pp. 55, 57; Stacy PM Aff., ¶¶ 23-24, 34 & Exs. WNS-3 & WNS-6.

³⁰ See Stacy OSS Aff., ¶¶ 109, 111-112 & Exs. WNS-37 & WNS-41.

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18. The performance data submitted by BellSouth fall far short of establishing that BellSouth is providing nondiscriminatory performance for CLECs. In particular, as discussed in detail below, although BellSouth has presented some limited performance data with its application, BellSouth has failed to provide data for a number of performance measurements which the Commission has found essential to any showing that parity is being providing to CLECs. Moreover, BellSouth has withheld available performance data from the Commission regarding its performance in providing timely firm order confirmations and order rejections to CLECs, which data show clearly that BellSouth's performance for CLECs is both inadequate and discriminatory.

19. Furthermore, in those few instances where BellSouth does provides comparative performance data, BellSouth's "statistical process control" charts do not show nondiscriminatory performance. On the contrary, as shown below, despite BellSouth's attempt to set broad "control limits" that would immunize it from almost any claims of discrimination, its own charts confirm that BellSouth is discriminating against CLECs. BellSouth has thus failed to meet its burden of establishing that the performance being delivered to CLECs is equivalent in terms of its availability, timeliness, and accuracy to the performance that BellSouth provides to itself.

III. BELLSOUTH HAS FAILED TO PROVIDE NECESSARY PARITY OF PERFORMANCE MEASUREMENTS.

20. In the first place, BellSouth has not provided a number of performance measurements that are essential to any determination as to whether BellSouth is providing nondiscriminatory access for CLECs. Indeed, BellSouth has not even attempted to provide with its application several of the performance measurements specifically found to be necessary in the Commission's recent *Ameritech Michigan* and *Bell Atlantic/NYNEX* orders.

21. In its *Ameritech Michigan Order*, the Commission provided "guidance" to all parties in the form of a detailed "roadmap" setting forth the evidence that BOCs are expected to submit with their Section 271 applications in order to meet their burden of showing, among other things, that they are providing nondiscriminatory performance for CLECs.³¹ In particular, at paragraph 212 of that order, the Commission specifically identified seven categories of performance data that BOCs should provide with their applications in addition to the performance data that had been submitted by Ameritech.³² Disregarding the

³¹ See Separate Statements of Chairman Hundt and Commissioners Quello, Ness and Chong.

³² *Ameritech Michigan Order*, ¶ 212 ("We therefore conclude that, in order to provide us with the appropriate empirical evidence upon which we could determine whether Ameritech is providing nondiscriminatory access to OSS functions, Ameritech should provide as part of a subsequent section 271 application, the following performance data, in addition to the data that it provided with this application: (1) average installation intervals for resale; (2) average installation intervals for loops; (3) comparative performance information for unbundled network elements; (4) service order quality and percent flow through; (5) held orders and

(continued...)

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Commission's clear guidance, BellSouth has failed to submit data for all but two of those seven categories.

22. The Commission provided further guidance to BOCs concerning the performance measurements that are needed to establish nondiscriminatory access in its *Bell Atlantic/NYNEX Order*. In Appendix D of that order, the Commission listed 22 specific performance measurements that Bell Atlantic and NYNEX are required to monitor and report as a condition to Commission approval of their merger. Notwithstanding the Commission's prior decision, BellSouth has provided no data at all on at least 11 of those 22 measures.

23. Some of the required performance measurements for which BellSouth has provided no data at all in its application are listed below.

A. Average Installation Intervals

24. In order to show parity for ordering and provisioning, BellSouth must show that it is provisioning CLEC orders within the same amount of time that it provisions the same or comparable services for its own local retail customers. Accordingly, the Commission found in its *Ameritech Michigan Order* that comparative performance data for "average installation intervals" is absolutely "critical" and "fundamental" to any showing of

³² (...continued)

provisioning accuracy; (6) bill quality and accuracy; and (7) repeat trouble reports for unbundled network elements") (footnotes omitted).

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nondiscriminatory performance in support of a Section 271 application.³³ Similarly, in its *Bell Atlantic/NYNEX Order*, the Commission required the merged BOCs to monitor and report their "average completed interval" measured from the time that a confirmed order was received by the BOCs to the actual order completion date.³⁴

25. Notwithstanding the clear need for data on average installation intervals established in the Commission's prior orders, BellSouth fails to provide this information. This omission precludes any finding of nondiscriminatory performance for CLECs, for as the Commission made clear in its *Ameritech Michigan Order*, "[w]ithout data on average installation intervals comparing [the BOC's] retail performance with the performance provided to competing carriers, the Commission is unable to conclude that [the BOC] is providing nondiscriminatory access to OSS functions for ordering and provisioning."³⁵

26. Nor does the data produced by BellSouth on "service order intervals"³⁶ fill this gap. Contrary to BellSouth's representation, its data on "service order intervals" does

³³ See *Ameritech Michigan Order*, ¶¶ 164-171, 185, 212.

³⁴ See *Bell Atlantic/NYNEX Order*, App. D, Measure 9. See also Friduss Aff. (DOJ), p. 16 ("Installation interval [is] an excellent measure of provisioning cycle time and therefore an integral performance parity determinant"). Mr. Friduss further recommends that the "Mean Installation Interval . . . should be reported on a disaggregated product and market basis." *Id.*, p. 28.

³⁵ *Ameritech Michigan Order*, ¶ 167.

³⁶ See Stacy PM Aff., ¶ 52 & Ex. WNS-10.

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not reflect "the actual intervals for provisioning various services."³⁷ Quite the contrary, as defined by BellSouth, "service order interval" is simply the period of time between the issuance of a service order by BellSouth and the due date assigned by BellSouth.³⁸ It does not in any way reflect the date on which the order was actually completed by BellSouth.³⁹ BellSouth's "service order intervals" are thus nothing more than BellSouth's scheduled time frame for fulfilling the order. BellSouth's claim that it is meeting the Department of Justice's request for data on actual installation intervals by producing data on "service order intervals" is thus patently false.

B. Comparative Performance Data For Unbundled Network Elements

27. In its *Ameritech Michigan Order*, the Commission also explained the need for BOCs to provide "comparative performance data for unbundled network elements"

³⁷ Stacy PM Aff., ¶ 52.

³⁸ See Stacy PM Aff., Ex. WNS-10A.

³⁹ Nor is this information captured in BellSouth's data on the percentage of due dates met, which provides no information about either the average interval for completing orders missing their due dates, or the average interval for completing orders that were reported as completed within the scheduled interval. See also *Ameritech Michigan Order*, ¶ 168 (data on due dates missed is not sufficient to show equivalent access). Although BellSouth's definition of "service order intervals" is unclear, it also does not appear to include the time that elapses between the receipt of the order by BellSouth and the issuance of a service order in BellSouth's Service Order Control System setting the due date.

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with their Section 271 applications.⁴⁰ Moreover, the Commission stated that such comparative data should include comparisons of the BOC's performance of analogous activities or functions "even if the actual mechanism used to perform the function is different for competing carriers than for the BOC's retail operations."⁴¹ For example, the Commission pointed out that nearly all pre-ordering and maintenance and repair activities relating to unbundled network elements have retail analogues,⁴² and the Commission stated that where the provision of unbundled local switching involves only software changes (such as an order to switch a customer over to the UNE platform), the appropriate comparison for parity purposes is the interval in which the

⁴⁰ *Ameritech Michigan Order*, ¶ 212 (BOCs must include "comparative performance information for unbundled network elements" with any Section 271 application sufficient to "permit comparisons" between the BOC's performance for CLECs and its performance for its own retail operations). *See also id.*, ¶¶ 139-141; *Bell Atlantic/NYNEX Order*, App. C, p. 124 & App. D, Measures 3-9, 11-18 (requiring comparative performance data for unbundled network elements for all relevant ordering, provisioning and maintenance measures).

⁴¹ *Ameritech Michigan Order*, ¶ 139. *See also* Michigan PSC, p. 31 ("Although exact parity of operations may not exist on the retail and wholesale operations, instances which are substantially analogous should be utilized for purposes of comparison"). This approach was also proposed by NYNEX in Section 271 hearings in New York. *See* Affidavit of Matthew J. Coffey on behalf of New York Telephone Company, filed February 14, 1997, in *In re Application to the Federal Communications Commission by New York Telephone Co. for Authority to Provide In-Region InterLATA Services in New York*, N.Y. Pub. Serv. Comm'n Case No. 97-C-0271, p. 11 ("For unbundled network elements, NYNEX New York will compare the actual performance for provisioning and maintaining unbundled elements to an interconnector to a corresponding category of service that NYNEX New York provides to its end users").

⁴² *See Ameritech Michigan Order*, ¶ 140.